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08-CV-00094-CMP

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

AIRBIQUITY INC.,  
*a Washington corporation,*

Plaintiff,

v.

AT&T INC., *a Delaware corporation*; AT&T  
MOBILITY LLC, *a Delaware limited liability*  
*company*; NEW CINGULAR WIRELESS  
SERVICES, INC., *a Delaware corporation*; and  
NEW CINGULAR WIRELESS PCS LLC, *a*  
*Delaware limited liability company,*

Defendants.

CIVIL ACTION No.

COMPLAINT

DEMAND FOR JURY TRIAL

**C 08 - 0094** MAT

Plaintiff Airbiquity Inc. ("Airbiquity"), for its Complaint against Defendants AT&T Inc., AT&T Mobility LLC, New Cingular Wireless Services, Inc., and New Cingular Wireless PCS, LLC, herein alleges as follows:

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**NATURE OF THE ACTION**

1. This action is based on the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*

**THE PARTIES**

2. Plaintiff Airbiquity is a corporation organized and existing under the laws of the State of Washington and having a place of business at 1011 Western Avenue, Suite 600, Seattle, Washington 98104.

3. Defendant AT&T Inc is a corporation organized and existing under the laws of the State of Delaware and having a place of business at 175 East Houston, San Antonio, Texas 78205.

4. Defendant AT&T Mobility LLC is a limited liability company organized and existing under the laws of the State of Delaware and having a place of business at Glenridge Highlands Two, 5565 Glenridge Connector, Atlanta, Georgia 30342.

5. Defendant New Cingular Wireless Services, Inc. is a corporation organized and existing under the laws of the State of Delaware and having a place of business at Glenridge Highlands Two, 5565 Glenridge Connector, Suite 1725B, Atlanta, Georgia 30342.

6. Defendant New Cingular Wireless PCS, LLC is a limited liability company organized and existing under the laws of the State of Delaware.

7. On information and belief, defendants are in the business of, *inter alia*, making, marketing, and selling cellular telephones and cellular service and related products and technologies and regularly, systematically, and continually conducting business in this Judicial District.

**JURISDICTION AND VENUE**

8. This action arises under the Patent Act, 35 U.S.C. § 1 *et seq.* The Court has original subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

9. The Court has personal jurisdiction over the parties, and venue in this Judicial District is proper under 28 U.S.C. §§ 1391(a), (b), and (c), and/or 1400(b).

**PLAINTIFF AND ITS RIGHTS**

10. Airbiquity was incorporated in 1997 to design, develop, manufacture, and sell wireless communications solutions that enable product suppliers and service providers in the M2M and telematics industries to deliver wireless data. Airbiquity has sold, and continues to sell, these products and technologies throughout the United States and internationally.

11. The United States Patent and Trademark Office ("PTO") has recognized Airbiquity's innovations by awarding numerous United States patents covering Airbiquity's technology.

12. On January 20, 2004, the PTO duly and lawfully issued United States Patent No. 6,681,121 ("the '121 patent"), entitled *Circuitry for Activating a Modem in a Cellular Telephone*. Airbiquity is the assignee and sole owner of the '121 patent, a true and correct copy of which is attached hereto as Exhibit 1.

13. On April 17, 2007, the PTO duly and lawfully issued United States Patent No. 7,206,305 ("the '305 patent"), entitled *Software Code for Improved In-band Signaling for Data Communications Over Digital Wireless Telecommunications Networks*. Airbiquity is the assignee and sole owner of the '305 patent, a true and correct copy of which is attached hereto as Exhibit 2.

14. On May 22, 2007, the PTO duly and lawfully issued United States Patent No. 7,221,669 ("the '669 patent"), entitled *Cellular Telephone Having Improved In-band Signaling for Data Communications Over Digital Wireless Telecommunications Networks*. Airbiquity is the assignee and sole owner of the '669 patent, a true and correct copy of which is attached hereto as Exhibit 3.

**DEFENDANTS AND THEIR UNLAWFUL ACTIVITIES**

15. On information and belief, defendants are presently manufacturing, using, selling, and/or offering to sell cellular telephones in the United States and in this Judicial District, which incorporate and employ technology in conformity with the 3GPP cellular text telephone modem standard, and thereby infringe, directly and/or by inducing or contributing to infringement of, one or more claims of the '121, '305, and '669 patents.

**PATENT INFRINGEMENT**

16. Airbiquity repeats and realleges each of the allegations contained in the above paragraphs of this Complaint as if fully set forth herein.

17. Defendants' actions constitute patent infringement, in violation of the Patent Act, 35 U.S.C. § 271 *et seq.*

18. Defendants' infringement has been willful.

19. By infringing directly and/or by inducing or contributing to the infringement of one or more claims of the '121, '305, and '669 patents, defendants have unfairly reaped a substantial commercial advantage and savings in research and development time and cost, all to Airbiquity's detriment. Airbiquity has been, and will continue to be, damaged by such infringement in an amount to be proven at trial, and in a manner and amount that cannot be fully measured or compensated in economic terms and for which there is no adequate remedy at law. Defendants' actions have damaged, and will continue to damage, Airbiquity's business, profits, market share, reputation, and goodwill unless Defendants' acts complained of herein are enjoined.

**PRAYER FOR RELIEF**

WHEREFORE, Airbiquity, seeks judgment as follows:

1. Defendants and their officers, directors, agents, servants, employees, attorneys, confederates, and all persons acting for, with, by, through, or under them or any of them, be permanently enjoined:

(a) From infringing any claim of the '121, '305, and '669 patents, either directly and/or contributorily; and

(b) From inducing others to infringe any claim of the '121, '305, and '669 patents.

2. Defendants be ordered to pay Airbiquity such damages as Airbiquity has sustained and adequate to compensate for the patent infringement, but in no event less than a reasonable royalty, as provided by 35 U.S.C. § 284.

1 3. Defendants' infringement of the '121, '305, and '669 patents be found to have been willfully  
2 committed by Defendants and treble damages, together with interest and costs, be awarded under 35  
3 U.S.C. § 284.

4 4. The present case be found exceptional and that Defendants be ordered to pay Airbiquity the  
5 costs of this action and its reasonable attorneys' fees, and interest, as provided by 35 U.S.C. §§ 284 and  
6 285.

7 5. Defendants be ordered to pay Airbiquity's prejudgment interest on all sums awarded as  
8 allowed by law.

9 5. Airbiquity have such other and further relief as this Court may deem just and proper.

10 **DEMAND FOR JURY TRIAL**

11 Plaintiff demands a trial by jury as to all issues so triable.

12  
13 DATED this 18th day of January, 2008.

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15 DORSEY & WHITNEY LLP

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17 Alexander A. Baehr, WSBA No. 25320  
18 Paul T. Meiklejohn, WSBA No. 17477  
19 Douglas F. Stewart, WSBA No. 34068

20 Attorneys for Plaintiff  
21 Airbiquity Inc.